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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,853	09/12/2003	Joseph W. Cole	COLEI.0012P	8537

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EXAMINER

SPRIGG, SEAN M

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 11/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

88

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/661,853

Applicant(s)

COLE, JOSEPH W.

Examiner

Sean Sprigg

Art Unit

3714

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

**JOHN M. HOTALING, II
PRIMARY EXAMINER**

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that Weiss'006 does not provide a bezel and instead provides a door, and therefore cannot anticipate claim 26. Examiner respectfully disagrees. It appears that Applicant believes that a door cannot include a bezel feature, to which the Examiner disagrees as a bezel as part of a door, swing like a door, or called a door is still a bezel. In Applicant's own disclosure, a bezel comprises a frame that defines an opening through which the display may be viewed (page 14). Applicant should find this definition satisfactorily describing the plain meaning of a bezel. It should then become clear that Weiss'006 does provide a frame that defines an opening through which the display may be viewed. Alternatively, it could be said that a bezel as disclosed in the instant application and shown in the drawings is nothing more than a door with a window that provides access to the display and can hold the display in place. Even with this understanding of a bezel Weiss'006 discloses such a feature as claimed. Applicant is reminded that the access opening Weiss'006 discloses includes the area above the reels that requires the display to be opened as well as the bezel/door. Therefore, the statement that the access opening is already opened when the bezel/door is open is incorrect as Weiss'006 does disclose the bezel/door and display needing to be in an open position to provide access to the interior of the cabinet. Therefore, Weiss'006 does disclose the claimed features of claim 26.

Applicant also argues that it would not have been obvious and not possible to modify Weiss'006 to include two pairs of pins as claimed. Examiner respectfully disagrees. Applicant is directed to the elements actually claimed and the explanation provided in the previous action. Specifically, claim 30 was rejected using a design choice obviousness rejection that stated both configurations would have been expected to work equally well at the time the invention was made. For example, a single pin preventing rotation of the display inward by having it contact a single slot works would have been expected to work equally as well as two pins engaging two slots to prevent rotation. Additionally, having the single pin located on a different side of the display would have been expected to work equally as well as the first pair of pins as claimed. It is further noted that the Applicant has not explicitly or implicitly disclosed any benefit or purpose for providing a certain number of pins in a certain configuration. Applicant appears to instead argue that the modification of Weiss'006 to provide the specific structure claimed is not obvious or possible, but ignores the fact that the configuration claimed and the configuration found in Weiss'006 are design choices that would have been obvious to one of ordinary skill in the art and therefore lacking novelty.

Applicant argues that LaFleur'326 would not have modified Weiss'006 because there is no need to increase access to the interior of the cabinet, which is the Applicant's motivation for such a feature. Examiner respectfully disagrees and notes that while Weiss'006 may already provide easy access to components stored in the access opening behind the display, allowing components stored behind the screen to move in a fashion as taught by LaFleur'326 is not precluded to make access even easier. In response to Applicant's argument that there is no suggestion to combine the references, the Examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. In re Nomiya, 184 USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures, taken as a whole, would suggest to one of ordinary skill in the art. In re McLaughlin, 170 USPQ 209 (CCPA 1971). References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. In re Bozek, 163 USPQ 545 (CCPA) 1969. In this case, Weiss'006 implicitly discloses a desire to provide easy access to a storage area within a game cabinet and LaFleur'326 discloses a means to provide easy access for the purposes of providing easy access. This clearly serves as motivation for combining features taught by LaFleur'326 in Weiss'006.

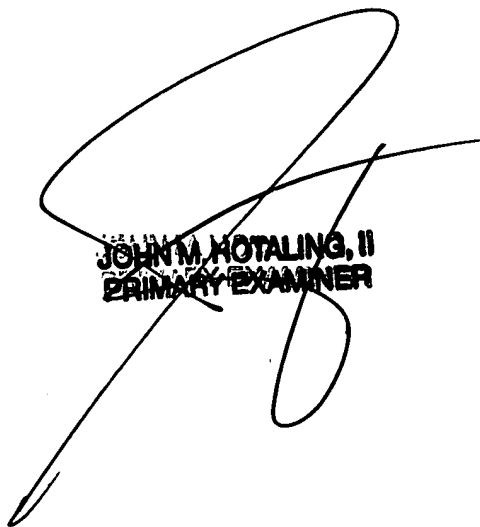
Applicant argues that it would not have been obvious or reasonable to modify Weiss'006 to rotate about a horizontal axis. Examiner respectfully disagrees. Specifically, Applicant provides arguments based on assumptions made based on drawings found in Weiss'006 that suggest a gaming device cabinet with certain dimensions and weights. For instance, Applicant appears to argue that Weiss'006 only discloses a 3-4 foot tall gaming machine door. However, Weiss'006 does not disclose the dimensions or weight of the gaming device, door/bezel, and the like, and it is understood that Weiss'006 is not limited to the exemplary configuration found in the drawings. Applicant is reminded that of the test for combining references as described above. In the instant case, LaFleur'326 suggests rotating a bezel a certain way for a certain purpose. Such a modification is possible and there is no evidence of teaching away from opening a bezel/door in this fashion. Therefore, arguing one specific configuration with a number of assumptions and subjective judgments of difficulty does not eliminate the reasonable expectation of success or preclude or debunk the modification of Weiss'006 with LaFleur'326 in a properly formed obviousness rejection. For argument's sake, even if the Applicant were correct in assuming the size and weight of the door/bezel of Weiss'006, Applicant should also understand that such proposed disadvantages in the modified configuration of Weiss'006 could be easily be made against the claimed invention as no specific size is disclosed or claimed. Furthermore, arguing that the an operator would need to carefully lower a door under its weight and pushing the door/bezel back up to close it proves nothing as the instantly claimed invention also requires the bezel to be lowered under its own weight and pushed up which could be difficult in certain configurations covered by the claim language.

Applicant argues that the input buttons would not be accessible when the bezel/door is rotated along a horizontal axis. Examiner respectfully disagrees. Firstly, claim 29 only requires that the player input buttons are aligned with the display opening in the bezel/door, a limitation which the combination of Weiss'006 in view of LaFleur'326 clearly has when the bezel/door is rotated along a horizontal axis. Secondly, the term "accessible" as found in claim 34 broadly includes the ability for a person to reach through the display opening to touch or access the buttons. There is no limitation that the display opening aligns immediately above the input buttons or that they are even visible when the bezel/door is in an open position. Since Weiss'006 in view of LaFleur'326 allows a player to reach through the display opening to access the input buttons when the bezel/door is open, it can be said that Weiss'006 in view of LaFleur'326 meets the limitations of claim 34.

Finally, Applicant argues that McKay'914 does not disclose a bezel. Examiner respectfully disagrees. As what is considered a bezel has been established above, it should be apparent that McKay'914 does disclose a bezel. Applicant is also reminded that the references are examined as a whole and are evaluated by what they suggest to one of ordinary skill in the art. In this case, McKay'914 suggests

separate rotation of a bezel for a particular purpose, which would make it obvious to one of ordinary skill in the art to incorporate such a feature.

In conclusion, the arguments presented have been considered but are not persuasive. Therefore, finality of the rejection is maintained.



JOHN M. HOTALING, II
PRIMARY EXAMINER